IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No.6963 of 2006

DATE OF ORDER:8.1.2007

New India Assurance Company Ltd

...Petitioner(s)

Versus

Jarnail Kaur and Others

....Respondent(s)

CORUM : HON'BLE MR. JUSTICE M.M. AGGARWAL

.*.*.*.

Present: Mr. Ashwani Talwar, Advocate.

M.M. AGGARWAL,J

This is petition against order dated 23.10.2006 passed by MACT/Fast Track Court, Ludhiana whereby request of the present petitioner for filing written statement was declined since written statement was not filed within the prescribed period of limitation i.e 90 days.

In the present case, service of respondent No.3 i.e present petitioner New India Assurance Company Ltd had been effected for 2.8.2005 and appearance was reported on that date but written statement was not filed. Defence of the present petitioner was struck off vide order dated 13.9.2006. Present petitioner had prayed a review of order dated 13.9.2006, which was declined vide impugned order dated 23.10.2006.

Counsel for the petitioner has produced copies of the zimni orders passed by MACT starting from 2.8.2005 onwards. After 2.8.2005, case was fixed for service of respondent No.1. It comes out that even powers of the Presiding Officer of the Tribunal had been withdrawn and the case remained pending for awaiting the orders.

In any case, cardinal principles of justice is that the case should be decided on merits. If the present petitioner had failed to file written statement within the prescribed period of limitation, then respondent No.1 Jarnail Kaur could be compensated with costs.

Under these circumstances, this petition is allowed. Let written statement of respondent No.3 i.e New India Assurance Company Ltd be taken on record by MACT on payment of Rs.5000/- as costs.

January 08, 2007 (M.M. AGGARWAL)
manoj JUDGE